

NOTICES OF SUBSTANTIVE POLICY STATEMENTS

The Administrative Procedure Act requires the publication of substantive policy statements issued by agencies (A.R.S. § 41-1013(B)(14)). Substantive policy statements are written expressions which inform the general public of an agency's current approach to rule or regulation practice. Substantive policy statements are advisory only. A substantive policy statement does not include internal procedural documents that only affect the internal procedures of the agency and does not impose additional requirements or penalties on regulated parties or include confidential information or rules made in accordance with the Arizona Administrative Procedure Act. If you believe that a substantive policy statement does impose additional requirements or penalties on regulated parties you may petition the agency under A.R.S. § 41-1033 for a review of the statement.

NOTICE OF SUBSTANTIVE POLICY STATEMENT DEPARTMENT OF HEALTH SERVICES

[M08-379]

1. Subject of the substantive policy statement and the substantive policy statement number by which the policy statement is referenced:

This substantive policy statement, #SP-001-OD-OACR, is issued by the Department by the Office of Administrative Counsel and Rules, and is titled "Clinical Laboratory Release of Patient Test Results to a Health Information Exchange organization." The purpose of this substantive policy statement is to notify the public of the Department's interpretation that a clinical laboratory may share a patient's clinical laboratory test results with a Health Information Exchange organization (HIE).

2. Date the substantive policy statement was issued and the effective date of the policy statement if different from the issuance date:

This substantive policy statement was issued and is effective September 12, 2008.

3. Summary of the contents of the substantive policy statement:

According to the Department's interpretation, A.R.S. § 36-470 neither permits nor prohibits a clinical lab from disclosing clinical laboratory test results to an HIE. HIPAA permits disclosure of a patient's protected health information to an HIE if the HIE has the required business associate agreement. Because there is no prohibition on such a disclosure in Arizona law, disclosure of a patient's clinical laboratory test results to an HIE consistent with HIPAA does not conflict with state law. Therefore, the Department believes a clinical laboratory may share clinical laboratory test results with an HIE when done in compliance with HIPAA.

4. A statement as to whether the substantive policy statement is a new statement or a revision:

This is a new substantive policy statement.

5. The name and address and telephone number of the person to whom questions and comments about the substantive policy statement may be directed:

Name: Kathleen Phillips, Administrative Counsel and Rules Administrator

Address: Department of Health Services
Office of Administrative Counsel and Rules
1740 W. Adams St., Suite 200
Phoenix, AZ 85007-2602

Telephone: (602) 542-1264

Fax: (602) 364-1150

6. Information about where a person may obtain a copy of the substantive policy statement and the costs for obtaining the policy statement:

Interested persons may obtain a copy of this substantive policy statement from the Arizona Department of Health Services. A paper copy may be obtained from the Office of the Director, Office of Administrative Counsel and Rules, 1740 W. Adams St., Suite 200, Phoenix, AZ 85007. The Department charges 25 cents per page for copying. Payment may be made by cash or by check or money order made payable to the Arizona Department of Health Services.